

Small Business Administration

§ 125.26

§ 125.24 Who may protest the status of an SDVO SBC?

(a) *For Sole Source Procurements.* SBA or the contracting officer may protest the proposed awardee's service-disabled veteran status.

(b) *For Competitive Set-Asides.* Any interested party may protest the apparent successful offeror's SDVO SBC status.

§ 125.25 How does one file a service disabled veteran-owned status protest?

(a) *General.* The protest procedures described in this part are separate from those governing size protests and appeals. All protests relating to whether an eligible SDVO SBC is a "small" business for purposes of any Federal program are subject to part 121 of this chapter and must be filed in accordance with that part. If a protester protests both the size of the SDVO SBC and whether the concern meets the SDVO SBC requirements set forth in § 125.15(a), SBA will process each protest concurrently, under the procedures set forth in part 121 of this chapter and this part. SBA does not review issues concerning the administration of an SDVO contract.

(b) *Format.* Protests must be in writing and must specify all the grounds upon which the protest is based. A protest merely asserting that the protested concern is not an eligible SDVO SBC, without setting forth specific facts or allegations is insufficient. *Example:* A protester submits a protest stating that the awardee's owner is not a service-disabled veteran. The protest does not state any basis for this assertion. The protest allegation is insufficient.

(c) *Filing.* An interested party, other than the contracting officer or SBA, must deliver their protests in person, by facsimile, by express delivery service, or by U.S. mail (postmarked within the applicable time period) to the contracting officer. The contracting officer or SBA must submit their written protest directly to the Director, Office of Government Contracting.

(d) *Timeliness.* (1) For negotiated acquisitions, an interested party must submit its protest by close of business on the fifth business day after notifica-

tion by the contracting officer of the apparent successful offeror.

(2) For sealed bid acquisitions, an interested party must submit its protest by close of business on the fifth business day after bid opening.

(3) Any protest submitted after the time limits is untimely, unless it is from SBA or the CO.

(4) Any protest received prior to bid opening or notification of intended awardee, whichever applies, is premature.

(e) *Referral to SBA.* The contracting officer must forward to SBA any non-premature protest received, notwithstanding whether he or she believes it is sufficiently specific or timely. The contracting officer must send all protests, along with a referral letter, directly to the Director, Office of Government Contracting, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416 or by fax to (202) 205-6390, marked Attn: Service-Disabled Veteran Status Protest. The CO's referral letter must include information pertaining to the solicitation that may be necessary for SBA to determine timeliness and standing, including: the solicitation number; the name, address, telephone number and facsimile number of the CO; whether the contract was sole source or set-aside; whether the protester submitted an offer; whether the protested concern was the apparent successful offeror; when the protested concern submitted its offer (*i.e.*, made the self-representation that it was a SDVO SBC); whether the procurement was conducted using sealed bid or negotiated procedures; the bid opening date, if applicable; when the protest was submitted to the CO; when the protester received notification about the apparent successful offeror, if applicable; and whether a contract has been awarded.

[69 FR 25269, May 5, 2004, as amended at 70 FR 14527, Mar. 23, 2005; 72 FR 50041, Aug. 30, 2007]

§ 125.26 What are the grounds for filing an SDVO SBC protest?

(a) *Status.* In cases where the protest is based on service-connected disability, permanent and severe disability, or veteran status, the Director, Office of Government Contracting will